

UNITED STATES DISTRICT COURT

for the

Southern District of Ohio

United States of America
v.
CHINCHILLA-BARAHONA, Jose
AKA LUNA, LUIS
AKA GONZALEZ, JOSE NAPOLEON

Case No. 2:23-mj-507

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of 11/05/2022 in the county of Franklin in the
Southern District of Ohio, the defendant(s) violated:

Code Section

8 U.S.C. 1326 (a) and (b)(1)

Offense Description

being an alien, that is, a citizen of Honduras who was ordered deported on 11/07/1988 and removed from the United States on or about 11/09/1988, was found on 11/05/2022 in Columbus, Ohio, without, prior to his re-entry and at a place outside the United States, obtaining the consent of the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States, in violation of section 8 USC 1326 (a) and (b)(1).

This criminal complaint is based on these facts:

see attached affidavit

☒ Continued on the attached sheet.

SUHA
D PENG

Digitally signed
by SUHA D PENG

Date: 2023.09.11

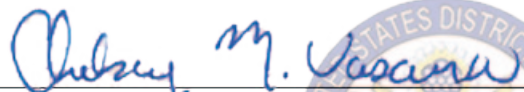
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Complainant's signature

Suha D. Peng, Deportation Officer (ICE)

Printed name and title

Sworn to before me and signed in my presence.

Date: 09/11/2023City and state: Columbus, Ohio


Chelsey M. Vascara

United States Magistrate Judge

Judge's signature

Chelsey M. Vascara U.S. Magistrate Judge

Printed name and title

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN THE MATTER OF THE
CRIMINAL COMPLAINT OF:**

CASE NO. 2:23-mj-507

United States of America

V.

JOSE CHINCHILLA-BARAHONA

aka. LUIS LUNA

aka. JOSE NAPOLEON GONZALEZ

aka. DENILSON MOLINA

aka. JUAN CARLOS GUTIERREZ MEJIA

aka. IRVIN TORRES

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, United States Immigration and Customs Enforcement (ICE) Deportation Officer Suha D. Peng, being first duly sworn, depose and state as follows:

1. I am a Deportation Officer (DO) with Enforcement and Removal Operations (ERO), Immigration and Customs Enforcement (ICE), Department of Homeland Security (DHS), with over 14 years of combined experience as a U.S. Border Patrol Agent and ICE Deportation Officer, duly appointed according to law and acting as such. I am assigned to the Columbus, Ohio ICE ERO Office. I have investigated both criminal and administrative violations of immigration law. I have successfully completed the United States Border Patrol Academy at the Federal Law Enforcement Training Center in Artesia, New Mexico.
2. During the course of investigating Jose CHINCHILLA-Barahona, I have learned the following facts:
3. Jose CHINCHILLA-Barahona is a citizen of Honduras with no legal status in the United States.
4. On or about October 20, 1988, CHINCHILLA-Barahona was arrested by U.S. Border Patrol Agents at or near San Clemente, California. CHINCHILLA-Barahona was charged administratively as an alien who entered the United States without inspection as described in Section 241(a)(2) of the Immigration and Nationality Act and issued Alien Registration

Number 029 253 530. On or about November 7, 1988, CHINCHILLA-Barahona was administratively ordered deported to Honduras by an Immigration Judge in San Diego, California. On November 9, 1988, CHINCHILLA-Barahona was physically deported from the United States to Honduras pursuant to this order via the Los Angeles, California Port of Entry. On that day CHINCHILLA-Barahona surrendered his fingerprint and photo for Immigration Form I-205 (Warrant of Deportation) and signed the same. CHINCHILLA-Barahona's departure was witnessed by an immigration officer who documented the departure by way of signature on Immigration Form I-205.

5. On January 18, 1991, CHINCHILLA-Barahona was found guilty of Take Vehicle without Consent/Vehicle Theft, in violation of California Vehicle Code 10851 (A), and Receiving Stolen Property, in violation of California Penal Code 496.1, in the Superior Court of California (Orange County, Harbor-Newport Beach Facility) and sentenced to 90 days jail and 36 months probation.
6. On July 24, 1991, CHINCHILLA-Barahona (under the alias Luis Luna) was found guilty of Sale or Transport of a Controlled Substance, in violation of California Health and Safety Code 11352 (A), in the Superior Court of California (Los Angeles Central) and sentenced to a suspended 180 days jail and 36 months of probation (under case number BA039969). On January 11, 1993, CHINCHILLA-Barahona's probation was revoked and he was sentenced to 3 years prison to run concurrently with his sentence from a separate case (case number BA068104)
7. On December 08, 1992, CHINCHILLA-Barahona (under the alias Jose Napoleon Gonzalez) was found guilty of Sale or Transport of Controlled Substance, in violation of California Health and Safety Code 11352 (A), in the Superior Court of California (Los Angeles Central) (under case number BA068104). On January 11, 1993, CHINCHILLA-Barahona was sentenced to three years in prison to run concurrently with his sentence from a separate case (case number BA039969).
8. On or about August 9, 1993, CHINCHILLA-Barahona was encountered by the United States Border Patrol at the Wasco State Prison in Wasco, California. CHINCHILLA-Barahona was charged administratively as an alien who entered the United States without inspection as described in Section 241(a)(1)(b) of the Immigration and Nationality Act. He was also charged administratively as an alien who, at any time after entry, was convicted of an aggravated felony as described in Section (241)(a)(2)(A)(iii) of the Immigration and Nationality Act. Both charges were under Alien Registration Number 029 253 530. On or about June 29, 1994, CHINCHILLA-Barahona was administratively ordered deported to Honduras by an Immigration Judge in El Centro, California. On July 13, 1994, CHINCHILLA-Barahona was physically deported from the United States to Honduras pursuant to this order via the Los Angeles, California Port of Entry. On that day CHINCHILLA-Barahona surrendered his

fingerprint and photo for Immigration Form I-205 (Warrant of Deportation) and signed the same. CHINCHILLA-Barahona's departure was witnessed by an immigration officer who documented the departure by way of signature on Immigration Form I-205.

9. On or about February 13, 1995, CHINCHILLA-Barahona (under the alias Juan Carlos Gutierrez Mejia) was encountered by the U.S. Border Patrol at or near Brownsville, Texas. CHINCHILLA-Barahona was charged administratively as an alien who entered the United States without inspection as described in Section 241(a)(1)(b) of the Immigration and Nationality Act and issued Alien Registration Number 073 225 447. On February 24, 1995, CHINCHILLA-Barahona was released from the custody of the Immigration and Naturalization Service after his bond was posted. On or about July 28, 1995, CHINCHILLA-Barahona was administratively ordered deported to Honduras (in absentia) by an Immigration Judge in New York, New York. On September 6, 1995, the Immigration and Naturalization Service in New York, New York issued an Immigration Form I-205 (Warrant of Deportation) for the arrest and deportation of CHINCHILLA-Barahona.
10. On or around July 22, 2013, BARAHONA-Chinchilla was encountered by ICE officers at the Pearl River County, Mississippi Detention Facility in Poplarville, Mississippi. ICE officers determined that CHINCHILLA-Barahona had an Order of Deportation and took him into custody. On or about August 5, 2013, CHINCHILLA-Barahona was physically deported from the United States to Honduras pursuant to the order of deportation via the Alexandria, Louisiana Port of Entry. On that day CHINCHILLA-Barahona surrendered his fingerprint and photo for Immigration Form I-205 (Warrant of Deportation) and signed the same. CHINCHILLA-Barahona's departure was witnessed by an immigration officer who documented the departure by way of signature on Immigration Form I-205.
11. On or about March 20, 2019, CHINCHILLA-Barahona was arrested (under the alias Denilson Molina) by the Columbus, Ohio Police Department for traffic offenses. CHINCHILLA-Barahona's fingerprints and photo were collected and submitted to the National Crime Information Center criminal records database. CHINCHILLA-Barahona was issued a summons to appear for his arraignment before the Franklin County, Ohio Municipal Court and was released. On March 29, 2019, the Franklin County, Ohio Municipal Court issued a bench warrant for CHINCHILLA-Barahona after he failed to appear for his arraignment.
12. On or about November 5, 2022, CHINCHILLA-Barahona was arrested by the Columbus, OH Police Department for traffic offenses. CHINCHILLA-Barahona's fingerprints and photo were collected and submitted to the National Crime Information Center criminal records database. CHINCHILLA was issued a summons to appear for his arraignment before the Franklin County, Ohio Municipal Court and released. On November 14, 2022, CHINCHILLA-Barahona was found guilty of No Operator's License, in violation of

Columbus, Ohio Ordinance 2141.12(A1), in the Franklin County, Ohio Municipal Court and sentenced to a fine.

13. On or August 18, 2023, the Columbus, Ohio Police Department provided your affiant with CHINCHILLA-Barahona's fingerprints and photograph. CHINCHILLA-Barahona's fingerprints were entered into the Next Generation Identification system (NGI/IDENT) pursuant to ICE administrative procedures. This system compares fingerprints electronically to determine if an individual has an existing ICE record, arrest record, and/or FBI number. The results of the NGI/IDENT query confirmed that the person previously arrested by the Columbus, OH Police Department on November 5, 2022 was Jose CHINCHILLA-Barahona, a Honduran national that had been assigned FBI number 779388JA8, and who has been previously formally deported or removed from the United States on three prior occasions under immigration service files A073 225 447 and A029 253 530.
14. Biometric and records checks confirmed that CHINCHILLA-Barahona has not requested, applied to, or received permission from, the Attorney General of the United States or the Secretary of the Department of Homeland Security to re-enter the United States after being deported, excluded, or removed.
15. CHINCHILLA-Barahona is currently at large.
16. I submit that the foregoing facts establish probable cause that CHINCHILLA-Barahona has committed a violation of 8 U.S.C. §§ 1326(a) and 1326(b)(1), in that CHINCHILLA-Barahona is an alien who: (1) subsequent to sustaining a felony conviction has been denied admission, excluded, deported, or removed, or has been departed the United States while an order of exclusion, deportation or removal is outstanding; (2) thereafter entered, attempted to enter, or was found in the United States; and (3) did not have consent from the Attorney General or the Secretary of the Department of Homeland Security to re-apply for admission to the United States prior to either his re-embarkation at a place outside the United States or his application for admission from a foreign contiguous territory.

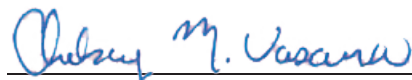
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PENG

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Suha D. Peng
Deportation Officer
Immigration and Customs Enforcement

September

Sworn before me and subscribed in my presence on this 11th day of ~~August~~ September of 2023.



HON. Chelsea M. Vascara
United States Magistrate Judge